agreements which increasingly make possible interconnection between LECs and CMRS providers.

Although states are expressly precluded from engaging in rate regulation proceedings to establish the additional costs of transporting or terminating calls, or requiring carriers to maintain records of the additional costs of such calls (§252(d)), states may determine whether rates for interconnection are just and reasonable in accordance with the standards set forth in §§252(d)(1)(A) & (B) and 252(d)(2).

3. **Section 253**

Similarly, Section 253 anticipates the active involvement of states in breaking down the barriers to market entry. States are given leeway to impose universal service, public safety, consumer rights and service quality requirements (§253(a)). The only express limitation placed on the states is the general proviso they not enact laws or regulations that act as barriers to market entry. Specifically, states are preempted from imposing any legal requirements that prohibit or have the effect of prohibiting the ability of any entity to provide intrastate or interstate communications service (*Id.*). State regulations that successfully facilitate interconnection between competing networks cannot reasonably be viewed as creating barriers to entry and should be allowed under Section 253.

E. The Telecommunications Act of 1996 Does Not Disturb the Dual Regulation of Communications by Wire and Radio.

Nothing in the Telecommunications Act of 1996 precludes dual regulation from continuing so long as states do not take action inconsistent with the Act of 1996. The dual regulatory scheme has worked well.[24] The Supreme Court stated that the Communications Act of 1934 "also recognizes that jurisdictional tensions may arise as a result of the fact that interstate and intrastate service are provided by a single integrated system." *Id.* at 375. Therefore, the Court looked to the separations process of separating costs between interstate and intrastate service in order to separate jurisdiction. California agrees with the Commission's prior statement that the costs associated with the provision of interconnection for interstate and intrastate cellular services are segregable.[25] As the CPUC stated in its comments in GN Docket No. 93-252, both "state and federal regulators have set [rates] for intrastate and interstate interconnection of basic communications services, respectively, without impinging upon each other's authority." (CPUC's Comments, pp. 10-11) The CPUC sees no reason why this arrangement cannot continue.

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24. *Louisiana Public Service Comm'n v. FCC*, 476 U.S. 355 (1986)(*Louisiana PSC*). The Court acknowledged that preemption may be warranted when interstate and intrastate services are inseparable and state regulations make it impracticable for the Commission to exercise its statutory powers. *Id.* at 375, n. 4.

25. CMRS Second Order, 9 FCC Rcd 1498.

States, unencumbered by excessive mandatory requirements, have been able to be innovative, for example, in developing compensation schemes that promote open competition and universal access while simultaneously satisfying their individual needs. States such as California have been on the cutting edge of devising regulatory schemes that promote open access and competition. Interconnection is an integral part of that process.

Like New York, the CPUC sees no reason that state and federal policies regarding LEC-CMRS interconnection cannot co-exist. NPRM at ¶105. We also agree with Pacific that LEC rates for interconnection are severable into interstate and intrastate rates because the costs are severable. *Id.* Thus, the states should retain jurisdiction over intrastate interconnection rates. States are in the best position to monitor interconnection furnished by CMRS providers to other carriers and other service providers. We also agree with NARUC that, if warranted, states should be allowed to impose additional interconnection obligations (NPRM, ¶105) particularly if the goals are to further universal service and achieve regulatory parity.

V. **Conclusion**

The CPUC believes that the Telecommunications Act of 1996 clarifies that states have authority over interconnection arrangements between LECs and new entrants, including CMRS. The Act most easily accommodates the informal model which, if supplemented by the involvement of industry to develop specific interconnection standards, should result in a responsive network

that achieves the national goals of open access and competition without sacrificing the flexibility needed to fashion a network that is also responsive to state and local needs. Such a system will better serve consumer needs, as opposed to a "one size fits all" approach that would likely result from a generic, mandated set of rules that do not take state and local markets into account. Flexibility will allow states and the industry to abandon interconnection arrangements that prove to be impractical or detrimental to the achievement of barrier-free markets and universal service, consistent with the Act of 1996.

The states and the industry know their own markets and can, within a larger framework, develop interconnection arrangements that will move the nation more quickly toward a seamless network. The CPUC, in its local competition proceeding, is drawing on the flexibility allowed by the dual regulatory scheme, affirmed by the Act of 1996, to be innovative and to tailor interconnection arrangements to fit its market dynamics. The Commission should allow the CPUC to continue to do so.

Respectfully submitted,

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DEC 22 1995

Decision 95-12-056 December 20, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service.	)	R.95-04-043 (Filed April 26, 1995)
Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service.	)	I.95-04-044 (Filed April 26, 1995)

I N D E X

I N D E X

INTERIM OPINION

I. Introduction and Scope

By this decision, we continue the implementation of competition in all California telecommunications markets with the adoption of further interim rules governing local exchange competition within the market territories of Pacific Bell (Pacific) and GTE California (GTEC). The interim rules adopted in this decision cover the issues designated as Phase I of this proceeding and supplement the initial rules for local exchange competition adopted in July 1995 in Decision (D.) 95-07-054.

The rules we adopt today will enable certificated competitive local carriers (CLCs) to enter into interconnection arrangements for local exchange service effective January 1, 1996. The Phase I rules addressed in this decision relate principally to interconnection and related features required by facilities-based CLCs, and to certain other entry-related issues. In a companion decision being issued today in this docket, an initial batch of CLC Petitions for authority to offer competitive local exchange service within the service territories of Pacific and GTEC are being approved to become effective January 1, 1996. Those certificated CLCs shall be subject to the adopted rules specified in this order. We expect to issue a decision in early February 1996 adopting initial rates for interim number portability (INP).[1] We intend to adopt further rules governing local exchange competition by March 1, 1996, the date we have established for initiating resale competition.

1 By unanimous assent among the active parties, the ALJ adjusted the scheduling of hearings on INP pricing issues consolidating them into a single phase for a decision on INP pricing scheduled for early 1996.

The rules allow for subsequent revision, if warranted, in response to changing market conditions or additional experience with their application. Accordingly, we stress that the rules we adopt are interim in nature and will serve to initiate the opening of the local exchange market to competition. We will entertain subsequent modifications if it becomes apparent that the rules are not working as intended or fail to achieve our stated goals.

In this decision, we provide LECs and CLCs with guidance on the content of interconnection agreements, establish an expedited approval process, and design a streamlined dispute resolution process. These three steps address concerns of both the LECs and CLCs that interconnection agreements may be difficult to establish and that the negotiating power of the parties to the contract may not be even. Our stated goal of promoting economically efficient, timely and fairly balanced interconnection between CLCs and LECs leads us to adopt preferred outcomes that we strongly encourage parties to consider in their own negotiations. While we will entertain contracts that deviate from the preferred outcomes, parties will bear the burden of proving the deviations lead to more economic and/or efficient outcomes and are in the public interest. The expedited review process balances our need to reject contracts that are not in the public interest with our goal of not impeding competition. The review process is only available for interconnection at this time, as described below. As the Commission resolves policy and factual disputes regarding other services CLCs may need to promote local competition, we may allow those services to be submitted for review under the expedited process. Finally, the dispute resolution process we adopt today will provide all parties to a contract with an expeditious forum to address their concerns before and after a contract is signed. This process should allow the parties to receive maximum guidance from the Commission without jeopardizing their due process rights.

II. Procedural Background

In our November 1993 report entitled Enhancing California's Competitive Strength: A Strategy for Telecommunications Infrastructure (Infrastructure Report), we stated our intention of opening all telecommunications markets to competition by January 1, 1997. The California Legislature subsequently adopted Assembly Bill 3606 (Ch. 1260, Stats. 1994), similarly expressing legislative intent to open all telecommunications markets to competition by January 1, 1997.

By issuance of D.94-12-053, we formally adopted a procedural plan to implement our stated goals. As part of that procedural plan, we instituted R.95-04-043/I.95-04-044 in which proposed interim rules were issued for comment on April 26, 1995. Following receipt and review of filed comments, we issued D.95-07-054, adopting initial rules in certain limited areas sufficient to enable prospective CLCs to file petitions for authority to enter the local exchange market by January 1, 1996. These adopted rules were set forth in Appendices A and B of D.95-07-054.

Following issuance of D.95-07-054, the assigned administrative law judge (ALJ) established a procedural schedule dividing the proceeding into three phases. Phase I addresses the issues requiring resolution in order to institute facilities-based competition by January 1, 1996. This decision resolves those Phase I issues. Phase II issues which address bundled resale competition are scheduled to be resolved by March 1, 1996. Phase III will address any remaining unresolved local competition issues.

As determined in D.95-07-054, certain issues in this docket were to be resolved through evidentiary hearings while remaining issues were to be resolved through a combination of technical workshops and written comments. Since the issues

resolved in this Phase I decision are of a rulemaking nature, no evidentiary hearings were held.[2] Written comments on the Phase I issues addressed in this decision were filed by Pacific, GTEC, the California Telecommunications Coalition (Coalition),[3] the Commission's Division of Ratepayer Advocates (DRA), Citizens Utilities Company (Citizens), Public Advocates,[4] Utility Consumer Action Network (UCAN), and the Federal Executive Agencies (FEA). Technical workshops and follow-up reports were also prepared and served on the issues of interconnection, E-911, the DEAF program and GO 133-B. We have carefully reviewed filed comments and workshop findings in arriving at our opinion as outlined below.

III. Interconnection Rules

A. Introduction

The initiation of facilities-based competition requires that CLCs be able to interconnect their network facilities to those of an incumbent LEC so that customers' calls can be routed and completed between two competing carriers. In our proposed rules issued for comment on April 26, 1995, we included a section dealing

2 As indicated in footnote 1, the hearing issue of interim number portability pricing at direct embedded cost, previously scheduled for Phase I was rescheduled to allow for a separate decision in early 1996.

3 The members of the Coalition include AT&T Communications of California; California Association of Long Distance Telephone Companies; California Cable Television Association; California Payphone Association; MCI Telecommunications Corp.; Teleport Communications Group; Time Warner AxS of California, L.P.; and Toward Utility Rate Normalization.

4 Public Advocates represents the Southern California Leadership Conference, National Council of La Raza, Korean Youth and Community Center, Filipinos for Affirmative Action, and Filipino Civil Rights Advocates.

with interconnection issues (see proposed rules, Appendix A, Section 8). The proposed interconnection rules addressed issues relating to the parties' respective rights and obligations with respect to the location and number of points of interconnection. The rules also addressed the rights and obligations to construct and maintain interconnecting facilities. Comments on the proposed interconnection rules were received May 24, 1995.

The May 24 comments revealed considerable disagreement regarding the proposed rules. While the Coalition generally favored the approach set forth in the proposed rules, i.e., requiring LECs to interconnect with CLCs at any points specified by the CLCs, Pacific argued that LECs and CLCs should each be able to specify the points of interconnections (POIs). GTEC and DRA argued that there should be mutual agreement on interconnection POIs.

Following review of parties' May 24 filed comments as well as oral arguments presented at a June 9 Full Panel Hearing, we developed a plan for further rulemaking with respect to interconnection issues in D.95-07-054. Accordingly, in D.95-07-054, we developed a timetable for facilities-based competitors to be able to enter the local exchange market and directed Pacific and GTEC to file proposed interconnection tariffs for parties' comment. Resolution of disputes over our April 26 proposed interim rules for interconnection was scheduled to be resolved by January 1, 1996, to allow opportunity for parties to comment on the LECs' proposed tariffs.

In the initial rules adopted in D.95-07-054, we mandated that local exchange networks should be interconnected so that customers of any local exchange carrier can seamlessly receive calls that originate on another local exchange carrier's network and place calls that terminate on another local carrier's network without dialing extra digits. We gave latitude to parties to enter into their own interconnection agreements subject to Commission approval. Parties were encouraged to negotiate mutual arrangements

for interconnection until more detailed interconnection rules were established under Phase I of the proceeding.

In the initial interim rules adopted in D.95-07-054, we adopted a "bill-and-keep" approach for dealing with call termination between the LECs and CLCs as an interim measure to become effective January 1, 1996. We directed that evidentiary hearings would be conducted on the issue of compensation for call termination later in the proceeding.

To provide parties an opportunity to comment on the remaining unresolved disputes regarding the terms and conditions of interconnection, the assigned ALJ solicited additional comments on these unresolved issues. We stated that any interim interconnection agreements reached between parties would not be invalidated by the adoption of subsequent rules.

Prospectively, we shall reserve the right to adopte rules for local exchange competition which may have the effect of superseding the terms of cetain interconnection contracts. We shall direct parties to include a standard clause in their interconnection contracts that its terms are subject to modification by the Commission. We anticipate that Commission rules would result in modification of contracts only in extreme cases, and only after due notice and oportunity to be heard. In any case, a carrier's failure to abide by Commission rules may result in revocation of its certificate authority.

Further comments regarding proposed rules for interconnection were filed by parties.

Pacific and GTEC also filed proposed interconnection tariffs on September 18, 1995 for comment. Informal meetings were held between CACD and various parties to discuss and clarify the proposed LEC tariffs. A technical workshop on interconnection

issues was held November 28. We have carefully reviewed parties' filed comments regarding interconnection rules and the proposed LEC interconnection tariffs and have taken them into account in the interim rules adopted in this order.

B. **Technical Issues**

1. **Should Interconnection Arrangements be Instituted Via Contract or Tariff**

a. **Parties' Positions**

The parties hold differing underlying beliefs regarding the proper vehicle for entering into interconnection arrangements for competitive local exchange service. Pacific and DRA believe that a tariffing process should be used as the basis for interconnection. GTEC, Citizens, and the Coalition believe that mutual negotiation through contract is a more useful vehicle.

Pacific

Pacific proposes to offer CLC interconnection under tariff. Pacific filed a partial version of its proposed interconnection tariff on September 18, 1995. On November 22, 1995, Pacific filed supplemental tariff sections to complete its September 18 filing. Pacific designates its tariff offering as Local Interconnection Serving Arrangement (LISA). Pacific claims that the LISA tariff would allow Pacific and CLCs to interconnect effective January 1, 1996 so as to allow each company to engineer its own network independently, recover their respective costs of interconnection, and cooperate with each other to minimize expenses. Under Pacific's proposal, a CLC would initiate an order for interconnection service through Pacific's mechanized ordering interface, the Carrier Enhanced System for Access Requests (CESAR). The LISA tariff offers a trunk-switched network interconnection between a CLC network POI and Pacific's access tandem or end office. LISA also provides for transmission facilities, tandem switching, end office switching, interexchange access, and end user termination functions to complete telephone calls between CLC and

Pacific customers and other common carriers connected to Pacific's tandem switching network. Operator-to-Operator connectivity for Busy Line Verify and Emergency Interrupt Service is also covered under LISA.

Pacific recommends that its proposed tariff be adopted in full by the Commission. If the Commission requires significant changes to LISA, Pacific claims that the January 1, 1996 implementation date for LISA may have to be adjusted. Pacific states that it must also be able to purchase interconnection service from CLCs beginning January 1, 1996, so that its customers may complete calls to CLC customers. Pacific recommends that the CLCs serve their proposed interconnection tariffs as soon as possible so that issues associated with the CLCs' proposed services may be addressed prior to the commencement of local exchange competition on January 1, 1996.

GTEC

In compliance with the August 18, 1995 ALJ Ruling, GTEC filed its proposed interconnection tariff. GTEC believes its proposed tariffs comply with the Commission's rules, are reasonable and flexible, and should be approved by the Commission if a tariffing approach to interconnection is adopted. GTEC believes, however, that the preferred approach to developing interconnection arrangements is through mutual agreement between LECs and CLCs.

GTEC generally supports the Commission's Interim Rules for interconnection as adopted in D.95-07-054 which provide for mutual negotiation of interconnection arrangements. The Commission's adopted interconnection rules can then provide guidance in those cases where the parties are unable to reach an agreement. GTEC believes it would be impractical to set forth in a tariff all of the technical details that encompass the interconnection of networks, or to develop tariff provisions to meet all possible situations. GTEC believes that parties should be allowed to negotiate the technical details of provisioning and

constructing facilities to give the flexibility needed to deal with the wide variety of new provisioning situations that will inevitably occur as CLCs and LECs interconnect their networks.

GTEC thus disagrees with Pacific's and DRA's positions that all terms and conditions should be tariffed. GTEC believes DRA's concern regarding discriminatory treatment can be resolved by requiring all negotiated interconnection agreements to contain nondiscriminatory prices across interconnected companies, and that all such agreements should be filed and approved to ensure that the terms and conditions are not unduly discriminatory or anticompetitive.

Citizens

Citizens supports the concept of mutually negotiated interconnection arrangements, with the material terms and conditions of such agreements filed with the Commission and made publicly available.

Citizens finds Pacific's proposed interconnection tariff to be flawed in a number of respects. According to Citizens, Pacific's proposed tariff inappropriately merges local and toll interconnection issues, and sets a different scheme for CLC toll termination than for other toll carriers. Citizens believes that adoption of Pacific's proposed tariff would lead to network inefficiencies, discrimination, and to inconsistencies with the Commission's Interim Rules. Citizens recommends that Pacific be ordered to file the tariff it was ordered to produce -- a local interconnection tariff. With a few exceptions, Citizens generally agrees with GTEC's proposed tariff, and applauds what it calls the reasonable approach taken by GTEC.

Citizens is concerned that some of the services identified by GTEC as ancillary are actually essential interconnection services which should be provided under tariff. Among the services which Citizens proposes should be provided under tariff and not by contract are: busy line verify/emergency

interrupt, primary white pages and standard yellow pages listing, inclusion of CLC customer listings in GTEC's directory assistance databases, and E911 database inclusion and selective router functions.

Citizens views seamless interconnection to require access on a nondiscriminatory basis to LEC data bases, white pages, and associated network signalling necessary for call routing and completion.

Coalition

The Coalition does not believe that interconnection arrangements need be tariffed, but prefers that parties negotiate their own interconnection arrangements subject to guiding rules and principles as adopted by the Commission. The Coalition finds that Pacific's proposed tariff, in particular, unnecessarily complicates the issues involved with LEC/CLC interconnection. The Coalition views interconnection between the LECs and CLCs to be no more technically challenging than the interconnections between LECs and IEC/LECs that have existed for decades.

The Coalition disagrees with Pacific's LISA tariff in which CLCs are relegated to "customer" status purchasing "services" from the LEC. The Coalition recommends changing the description of Pacific's CLC interconnection arrangement from "service" to "arrangement" to reflect co-carrier parity between LECs and CLCs.

The Coalition expresses concern that Pacific has not finalized its tariffs and that they might be revised in a way that affects Pacific's proposed interconnection service. The Coalition believes this makes it impossible to fully assess Pacific's proposed tariff, and the Commission should require Pacific to propose a final tariff immediately and give the Coalition an additional opportunity to address any such proposed changes. The Coalition recommends that GTEC modify its tariffs so that it is required to provide access to directories, E911 and SS7.

The Coalition recommends that if interconnection arrangements must be governed by tariff, then the LECs should be ordered to refile their interconnection tariffs prior to the advent of local exchange competition on January 1, 1996 to be consistent with the Coalition's interconnection model.

The Coalition offers several criteria for reviewing the LECs' proposed interconnection tariffs. The first criteria is engineering efficiency which means that internetwork facilities should be engineered to standard and accepted industry parameters. The second criteria is economic efficiency which occurs when LECs charge no more than their costs for providing interconnection arrangements which are efficiently engineered. The third criterion is flexibility, given that many different CLCs will likely require a variety of interconnection arrangements. The Coalition believes its interconnection model meets these criteria and also is intended to prevent the LECs from engaging in anticompetitive behavior with respect to LEC-CLC interconnection. The Coalition recommends that the LECs be required to accommodate as many CLC preferences as possible, subject only to the constraint that their networks need to be capable of the configuration requested by the CLC.

DRA

DRA believes interconnection rules should ensure competitive equity between the participants and protection of consumer interests. Going forward, DRA prefers that tariffs rather than contracts govern interconnection arrangements since DRA believes contracts readily lend themselves to anticompetitive conduct. DRA believes that the interconnection tariffs filed by Pacific and GTEC, however, are not acceptable.

DRA observes that GTEC's tariff specifies that a number of services will be provided via negotiated contracts (i.e., operator services, directory assistance, directories, database access, billing and collection, SS7 interconnection, and E911). DRA believes that rates, terms, and conditions for these services

should be tariffed, and not provided pursuant to contracts. DRA states that LISA does not provide interconnection to other LEC services such as 911 or operator services, which CLCs must provide to their end users.

DRA also notes that the proposed new section in the 175-T tariff contains a general statement that the regulations, rates, and charges in other portions of the tariff may be applicable, but does not specify what other regulations, rates, and charges will be applicable.

DRA recommends that any interconnection services contracts in existence as of January 1, 1996, should be converted to tariffed arrangements.

FEA

FEA agrees with the Coalition that negotiation is favored as the means of developing interconnection arrangements as opposed to tariffing, particularly given the competitive environment in which such arrangements will be implemented. FEA believes the contentiousness surrounding competitive local exchange interconnection is not due to technical issues which are new to California. Rather, the contentiousness is due to the fact that each advantage given to a competitor represents a matching disadvantage on oneself. FEA believes the adoption of tariffs would prove too unwieldy and limit parties' flexibility to negotiate different terms if circumstances change. Thus, FEA believes the Commission should create an environment conducive to negotiation and that adopted rules should serve only as a fallback mechanism.

b. Discussion

In order for the adopted interconnection rules to be successful in achieving the goal of promoting a competitive marketplace, certain underlying principles must be observed. A threshold issue to be resolved is whether tariffs should be required for CLCs to enter into interconnection arrangements with a

LEC. The manner in which we develop interim rules for interconnection will be influenced by the answer to this question. Given our stated goal of fostering an environment conducive to the development of a competitive market, we conclude, on balance, that negotiated contracts offer a superior alternative to tariffing of interconnection services.

The traditional tariffing paradigm comports with a monopoly model where command and control regulation is used. Moreover, as an initial step in devising rules for local exchange network interconnection, we directed Pacific and GTEC to file proposed interconnection tariffs for comment. Nonetheless, in recognition of the inflexibility and inefficiency of Pacific's tariff, we now conclude that in the newly emerging competitive world of multiple providers, interconnection should be arranged under contract rather than tariff.

Allowing competitors to negotiate contracts will have several benefits over tariffs. A more level playing field is created when prospective competitors are able to negotiate their own terms and conditions for interconnection with co-carrier status subject to appropriate Commission rules and guidelines. Contracts will afford LECs and CLCs greater opportunity to negotiate flexible interconnection agreements to meet the needs of both parties. We expect contracts will lead to an overall increase in efficient utilization of the combined CLC and LEC interconnection facilities and, therefore, lead to more economic interconnection than would a more rigid tariff structure. Contracts will allow parties to more readily deploy new technologies as they become available.

We are aware that all parties have concerns about negotiating contracts. In an unstructured negotiation, the Coalition believes that the LECs have too much negotiating power. In contrast, the LECs find that the Coalition's proposed rules tip the negotiating power too far in the CLCs' favor. To balance these concerns, we will adopt rules which prescribe a set of "preferred

outcomes." These preferred outcomes are based on parties' comments about what technical features lead to the most efficient and economic interconnection solutions. Appendix A of this decision provides a summary display of our preferred outcomes with respect to the major interconnection disputes at issue. The rationale for these outcomes is discussed in the following sections. In approving interconnection contracts, Commission staff will consider how well a contract achieves the "preferred outcomes," but will not reject mutually agreeable contracts that do not contain preferred outcomes and which are not unduly discriminatory and anticompetitive. We are aware that parties may find alternatives to the "preferred outcomes" that are more efficient and/or economic to their particular situation. We will approve contracts that do not contain the "preferred outcomes" if the contract is mutually agreeable and passes other Commission guidelines outlined below. Parties shall submit those agreements to the Commission and explain why their terms should be adopted.

In addition to providing efficient and economic solutions, the "preferred outcomes" balance the negotiating power of LECs and CLCs which should result in both parties pursuing a solution that is least cost for the total interconnection costs of both parties. A solution that may be more economical for one carrier may not be appropriate if it results in an even greater inefficiency for its competitor.

Many parties are concerned that negotiations are a good solution only when parties can reach agreement in a reasonable time period. Negotiations are less productive when parties delay for strategic reasons, and we are aware that CLCs and LECs are potential competitors and either party could have reason to stall the process. In response to this shortcoming of negotiations, we are establishing an expedited dispute resolution procedure to handle both situations where parties cannot agree on an interconnection arrangement and situations where parties have potentially breached their interconnection contract. This process will expeditiously resolve disputes between parties to assure the

Commission's goal of competition is not obstructed. As discussed below, we shall assign an ALJ to facilitate the resolution of disputes. We shall direct the ALJ to use our preferred outcomes as guidelines in resolving disputes.

While adopting a negotiation model as the basis for interconnection, we do not abdicate our role as regulators responsible for assurance that the terms and conditions of such agreements are consistent with the public interest.

We remain concerned about the potential for unfair discrimination. With the proper safeguards in place to review and approve LEC/CLC interconnection contracts, however, we believe that concerns regarding discriminatory practices can be reasonably addressed. We place parties on notice that we will review proposed interconnection contracts for unfair discriminatory terms and will deny approval or direct parties to renegotiate any unfairly discriminatory or otherwise unreasonable terms where necessary. Upon reaching agreement on the terms of interconnection, parties to the agreement shall file the agreement via advice letter with the Commission for expedited review and approval.

We appreciate that much work has gone into the interconnection provisioning proposed in the LECs' tariffs, and believe that much of the technical interconnection features discussed in the tariffs will readily lend themselves to implementation under contract as well as tariff. Accordingly, we direct all parties to negotiate in good faith. Moreover, we agree that certain essential services as noted by Citizens must be provided in conjunction with interconnection and may still be appropriately offered under tariff rather than contract. These services include busy line verify/emergency interrupt, and LECs' inclusion of CLC customer listings in directory assistance data bases. We shall direct the LECs to provide these services to CLCs under mutually agreeable terms and conditions. We shall permit the LECs to offer these services either under tariff or by contract on

an interim basis, pending further determination in our Phase II rules.

2. Points of Interconnection

Parties' Positions

Parties disagree over the respective rights and obligations of the LECs and CLCs regarding the determination of the location of and number of points of interconnection (POI) by each party.

Pacific

Pacific believes each interconnecting party should be allowed to select its POI for terminating its own traffic on the other's network. Pacific generally agrees that CLCs may pick their POIs for terminating their traffic on Pacific's network. Pacific, however, asks that it be granted the same right. Pacific anticipates that CLCs and LECs could mutually agree on a single POI. If not, then each company should have the ability to select a POI on the other's network for the termination of traffic since CLCs will know what is efficient for them and Pacific will know what is efficient for itself. Pacific proposes that costs for the interconnection up to the facility meet point should be compensated through the payment of tariffed access service prices, that is, Pacific will pay the CLCs their tariffed rates for the interconnection, and vice versa.

GTEC

GTEC supports the Commission's Interim Rule that authorizes the LECs and CLCs to enter into mutually agreeable terms and conditions to establish both the POI and the provisioning of interconnection facilities. GTEC strongly recommends that no party be given the authority to unilaterally designate the POI since the party possessed with this power would have no incentive to ever reach a mutually agreed upon POI. GTEC is concerned that if CLCs are allowed to dictate to GTEC to construct and pay for half of the interconnection facilities, GTEC would incur huge outlays of

capital on facilities that might be unnecessary or uneconomic. GTEC believes that the cost of building CLC's networks, whether necessary or not, will ultimately be borne in large part by LEC ratepayers.

GTEC suggests two solutions when mutual agreement on the POI is not possible. First, the POI should be established at the CLC's physical facility nearest to the LEC's serving wire center or tandem. In those instances where the CLC does not have a physical facility within the area served by the LEC wire center or tandem, GTEC agrees to build out to the boundary of the serving area of the wire center or tandem and interconnect with the CLC at that point.

GTEC's second solution would occur when the CLC wished to challenge as unreasonable the POI being established either at its own physical facility or the LEC's serving wire center or tandem boundary. In such circumstances, GTEC proposes a process such as the forum opened in I.90-02-047 (Forum OII) be established to resolve such interconnection impasses. GTEC recommends that interconnection disputes first be brought to CACD staff, and in those cases where CACD could not effect a resolution of the dispute, the matter would be referred to the Forum OII for resolution. GTEC is opposed to the POI solution in which LECs and CLCs would each be able to specify the POI for the traffic sent by the other company. GTEC views this approach to require two sets of facilities and result in an inefficient network.

GTEC advocates that interconnection facilities should be established and paid for in accordance with the concept of an originating responsibility plan (ORP). Under ORP, the carrier serving the customer who originated the call is responsible for ensuring that the necessary means for terminating the call are in place. As set forth in GTEC's interconnection tariff, there are four options for the CLC to establish the facilities needed for interconnection under the ORP concept: (1) The CLC builds at its own expense the facility to GTEC's end office or tandem, and

virtually collocates at GTEC's central office. Under this option, the CLC would own the facilities, although GTEC would install and maintain collocated facilities; (2) The CLC obtains special access facilities under GTEC's existing tariffs, thereby allowing the CLC to connect with GTEC at the desired first point of presence; (3) CLC interconnects with GTEC through an agreement with a third party already connected to GTEC; and (4) GTEC and the CLC agree to jointly construct, pay for, and own new plant.

Citizens

Citizens argues that each carrier should be required to provide any necessary facilities up to the requested meet point. Further, any carrier which controls facilities or functions which are necessary to a competitor should be required to respond to a competitor's bona fide request for interconnection in a timely, nondiscriminatory manner.

Citizens notes that Pacific's tariff appears to allow CLCs to interconnect only at access tandems or end offices, and indicates that CLCs will require interconnection to Pacific's local tandem, not its access tandem. While an access tandem provides connection to the world, a local tandem provides connection to the LEC end office. Pacific also expects CLCs to be responsible for providing sufficient information and signalling to permit routing, delivery, and proper billing of local switched traffic over the LEC's network. Citizens argues that this proposed requirement will mean that the CLC would have to provide data in the signalling message that does not now typically accompany a local or EAS call, and might require software changes.

Coalition

The Coalition recommends modification of Pacific's proposed tariff to remove the arrangement whereby Pacific and a CLC establish the location of the POI by mutual negotiation and replace it with the CLC right to specify the POIs. The Coalition states that GTEC's tariff limits the POI to a GTEC switch location. The